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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

MARCIA WELLS and TEENA ACREE,  
individually and as Co-Special  
Administrators of the Estate of Byron Lee  
Williams, Deceased; TINA LEWIS-  
STEVENSON, individually as an heir;  
GWENDOLYN LEWIS, individually as an  
heir; ROBYN WILLIAMS, individually as an  
heir and DEWAIN LEWIS, individually as an  
heir,

Plaintiffs,

vs.

THE CITY OF LAS VEGAS, a political  
subdivision of the State of Nevada; CLARK  
COUNTY, a political subdivision of the State  
of Nevada; LAS VEGAS METROPOLITAN  
POLICE DEPARTMENT, a political  
subdivision of the State of Nevada; OFFICER  
PATRICK CAMPBELL, individually and as  
an agent of the City of Las Vegas, Clark  
County, and the Las Vegas Metropolitan  
Police Department; OFFICER BENJAMIN  
VASQUEZ, individually and as an agent of  
the City of Las Vegas, Clark County, and the  
Las Vegas Metropolitan Police Department;  
OFFICER ALEXANDER GONZALEZ,  
individually and as an agent of the City of Las  
Vegas, Clark County, and the Las Vegas  
Metropolitan Police Department; OFFICER  
ROCKY ROMAN, individually and as an  
agent of the City of Las Vegas, Clark County,  
and the Las Vegas Metropolitan Police  
Department; and SHERIFF JOE  
LOMBARDO, as agent of the City of Las  
Vegas, Clark County, and the Las Vegas

Case Number:  
2:21-cv-01346-JCM-EJY

**DEFENDANTS LVMPD, CAMPBELL,  
VASQUEZ, GONZALEZ, ROMAN AND  
LOMBARDO'S ANSWER TO  
PLAINTIFFS' COMPLAINT**

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1 Metropolitan Police Department,  
 2 Defendants.

3  
 4 Defendants Las Vegas Metropolitan Police Department, Officer Patrick Campbell,  
 5 Officer Benjamin Vasquez, Officer Alexander Gonzalez, Officer Rocky Roman and Sheriff  
 6 Joe Lombardo ("LVMPD Defendants"), by and through their attorneys of record, Marquis  
 7 Aurbach Coffing, hereby file their Answer to Plaintiffs' Complaint. (ECF No. 1)

### 8 NATURE OF ACTION

9 1. The LVMPD Defendants admit the allegations contained in paragraphs 1 and  
 10 2 of Plaintiffs' Complaint.

### 11 JURISDICTION AND VENUE

12 2. The LVMPD Defendants admit the allegations contained in paragraphs 3 and  
 13 4 of Plaintiffs' Complaint.

### 14 THE PARTIES

15 3. The LVMPD Defendants deny the allegations contained in paragraphs 5, 6, 7,  
 16 8, 9, 10, 18, 19, 20 and 21 of Plaintiffs' Complaint.

17 4. The LVMPD Defendants admit the allegations contained in paragraphs 11,  
 18 12, 13, 14, 15, 16, 17, 22 and 30 of Plaintiffs' Complaint.

19 5. The LVMPD Defendants are without sufficient knowledge to form an  
 20 opinion as to the truth of Plaintiffs' allegations contained in paragraphs 23, 24, 25, 26, 27,  
 21 28 and 29 of Plaintiffs' Complaint, and therefore deny the remaining allegations.

### 22 FACT STATEMENT

#### 23 I. LAS VEGAS METRO POLICE DEPARTMENT POLICIES IN FORCE ON SEPTEMBER 5, 2019

24 6. The LVMPD Defendants admit the allegations contained in paragraphs 31,  
 25 32, 33, 34, 36, 40, 43 and 44 of Plaintiffs' Complaint.

26 7. The LVMPD Defendants deny the allegations contained in paragraph 35 of  
 27 Plaintiffs' Complaint.

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1           15.     The LVMPD Defendants are without sufficient knowledge to form an  
2 opinion as to the truth of Plaintiffs' allegations contained in paragraphs 167, 177, 178, 179,  
3 180 and 181 of the Plaintiffs' Complaint, and therefore deny the remaining allegations.

4           16.     The LVMPD Defendants deny the allegations contained in paragraph 169 of  
5 Plaintiffs' Complaint.

6                               **FIRST CAUSE OF ACTION**

7                               **WRONGFUL DEATH – BATTERY**

8                               **PLAINTIFFS V. DEFENDANT OFFICERS CAMPBELL, VASQUEZ, AND ROMAN**

9           17.     The LVMPD Defendants are without sufficient knowledge to form an  
10 opinion as to the truth of Plaintiffs' allegations contained in paragraphs 183 and 192 of the  
11 Plaintiffs' Complaint, and therefore deny the remaining allegations.

12           18.     The LVMPD Defendants admit the allegations contained in paragraph 184 of  
13 the Plaintiffs' Complaint.

14           19.     The LVMPD Defendants deny the allegations contained in paragraphs 185,  
15 186, 187, 188, 189, 190 and 191 of Plaintiffs' Complaint.

16                               **SECOND CAUSE OF ACTION**

17                               **WRONGFUL DEATH – NEGLIGENCE**

18                               **PLAINTIFFS V. DEFENDANT CITY OF LAS VEGAS, DEFENDANT CLARK**  
19 **COUNTY, DEFENDANT LVMPD, AND DEFENDANT OFFICERS CAMPBELL,**  
**VASQUEZ, GONZALEZ AND ROMAN**

20           20.     The LVMPD Defendants are without sufficient knowledge to form an  
21 opinion as to the truth of Plaintiffs' allegations contained in paragraphs 193 and 200 of the  
22 Plaintiffs' Complaint, and therefore deny the remaining allegations.

23           21.     The LVMPD Defendants deny the allegations contained in paragraphs 194,  
24 195, 197, 198 and 199 of Plaintiffs' Complaint.

25           22.     The LVMPD Defendants admit the allegations contained in paragraph 196 of  
26 the Plaintiffs' Complaint.

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**THIRD CAUSE OF ACTION**

**NEGLIGENCE – SURVIVAL**

**PLAINTIFFS V. DEFENDANT CITY OF LAS VEGAS, CLARK COUNTY, LVMPD,  
AND OFFICERS CAMPBELL, VASQUEZ, GONZALEZ AND ROMAN**

23. The LVMPD Defendants are without sufficient knowledge to form an opinion as to the truth of Plaintiffs' allegations contained in paragraphs 201 and 207 of the Plaintiffs' Complaint, and therefore deny the remaining allegations.

24. The LVMPD Defendants deny the allegations contained in paragraphs 202, 203, 205 and 206 of Plaintiffs' Complaint.

25. The LVMPD Defendants admit the allegations contained in paragraph 204 of Plaintiffs' Complaint.

**FOURTH CAUSE OF ACTION**

**BATTERY – SURVIVAL**

**PLAINTIFFS V. DEFENDANT OFFICERS CAMPBELL, VASQUEZ AND ROMAN**

26. The LVMPD Defendants are without sufficient knowledge to form an opinion as to the truth of Plaintiffs' allegations contained in paragraphs 208 and 217 of Plaintiffs' Complaint, and therefore deny the remaining allegations.

27. The LVMPD Defendants deny the allegations contained in paragraphs 209, 210, 211, 212, 213, 214, 215 and 216 of Plaintiffs' Complaint.

**FIFTH CAUSE OF ACTION**

**42 U.S.C. §1983 – EXCESSIVE FORCE IN VIOLATION OF THE FOURTH  
AMENDMENT**

**PLAINTIFFS V. DEFENDANT OFFICERS CAMPBELL, VASQUEZ, AND ROMAN**

28. The LVMPD Defendants are without sufficient knowledge to form an opinion as to the truth of Plaintiffs' allegations contained in paragraphs 218 and 240 of Plaintiffs' Complaint, and therefore deny the remaining allegations.

29. The LVMPD Defendants deny the allegations contained in paragraphs 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238 and 239 of Plaintiffs' Complaint.

#### **SIXTH CAUSE OF ACTION**

#### **42 U.S.C. §1983 – DISREGARD OF MEDICAL NEEDS IN VIOLATION OF THE FOURTEENTH AMENDMENT**

#### **PLAINTIFFS V. DEFENDANT OFFICERS CAMPBELL, VASQUEZ, GONZALEZ AND ROMAN**

30. The LVMPD Defendants are without sufficient knowledge to form an opinion as to the truth of Plaintiffs' allegations contained in paragraphs 241 and 260 of Plaintiffs' Complaint, and therefore deny the remaining allegations.

31. The LVMPD Defendants deny the allegations contained in paragraphs 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258 and 259 of Plaintiffs' Complaint.

#### **SEVENTH CAUSE OF ACTION**

#### **42 U.S.C. §1983 – MUNICIPAL LIABILITY UNDER MONELL**

#### **PLAINTIFFS V. DEFENDANT CITY OF LAS VEGAS, DEFENDANT CLARK COUNTY, DEFENDANT LVMPD, AND DEFENDANT SHERIFF JOE LOMBARDO**

32. The LVMPD Defendants are without sufficient knowledge to form an opinion as to the truth of Plaintiffs' allegations contained in paragraph 261 of Plaintiffs' Complaint, and therefore deny the remaining allegations.

33. The LVMPD Defendants deny the allegations contained in paragraphs 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286 and 287 of Plaintiffs' Complaint.

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**EIGHTH CAUSE OF ACTION**

**42 U.S.C. §1983 – RATIFICATION**

**PLAINTIFFS V. DEFENDANT CITY OF LAS VEGAS, DEFENDANT CLARK COUNTY, AND DEFENDANT LVMPD**

34. The LVMPD Defendants are without sufficient knowledge to form an opinion as to the truth of Plaintiffs' allegations contained in paragraph 288 of Plaintiffs' Complaint, and therefore deny the remaining allegations.

35. The LVMPD Defendants deny the allegations contained in paragraphs 289, 290, 292, 294 and 295 of Plaintiffs' Complaint.

36. The LVMPD Defendants admit the allegations contained in paragraphs 291 and 293 of Plaintiffs' Complaint.

**NINTH CAUSE OF ACTION**

**NEGLIGENT RETENTION**

**PLAINTIFFS V. DEFENDANT CITY OF LAS VEGAS, DEFENDANT CLARK COUNTY, AND DEFENDANT LVMPD**

37. The LVMPD Defendants are without sufficient knowledge to form an opinion as to the truth of Plaintiffs' allegations contained in paragraphs 296, 300, 301, 302 and 303 of Plaintiffs' Complaint, and therefore deny the remaining allegations.

38. The LVMPD Defendants deny the allegations contained in paragraphs 297, 298, 299, 304, 305 and 306 of Plaintiffs' Complaint.

**TENTH CAUSE OF ACTION**

**NEGLIGENT TRAINING**

**PLAINTIFFS V. DEFENDANT CITY OF LAS VEGAS, DEFENDANT CLARK COUNTY, AND DEFENDANT LVMPD**

39. The LVMPD Defendants are without sufficient knowledge to form an opinion as to the truth of Plaintiffs' allegations contained in paragraph 307 of Plaintiffs' Complaint, and therefore deny the remaining allegations.

1           40.     The LVMPD Defendants deny the allegations contained in paragraphs 308,  
2 309, 310, 311, 312, 313, 314 and 315 of Plaintiffs' Complaint.

3                               **AFFIRMATIVE DEFENSES**

4                               **FIRST AFFIRMATIVE DEFENSE**

5           Plaintiffs' suit fails to state a claim for relief as they failed to allege a violation of a  
6 right, privilege, or immunity secured by the United States Constitution or by the laws of the  
7 United States.

8                               **SECOND AFFIRMATIVE DEFENSE**

9           These Answering Defendants did not act deliberately indifferent to Plaintiffs'  
10 constitutional rights.

11                              **THIRD AFFIRMATIVE DEFENSE**

12           The complained of acts of these Answering Defendants were justified and privileged  
13 under the circumstances.

14                              **FOURTH AFFIRMATIVE DEFENSE**

15           At all times mentioned in Plaintiffs' Complaint, these Answering Defendants acted  
16 in good faith belief that their actions were legally justifiable.

17                              **FIFTH AFFIRMATIVE DEFENSE**

18           These Answering Defendants did not implement an unconstitutional custom,  
19 practice, or policy.

20                              **SIXTH AFFIRMATIVE DEFENSE**

21           The Plaintiffs' claims of constitutional violation are unsupported in both fact and  
22 law, as Plaintiffs have not alleged sufficient basis from which a constitutional interest might  
23 arise in conjunction with the alleged actions.

24                              **SEVENTH AFFIRMATIVE DEFENSE**

25           To the extent Plaintiffs' causes of actions against these Answering Defendants sound  
26 in negligence, no recovery can be predicated upon 42 USCA §1983.

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**EIGHTH AFFIRMATIVE DEFENSE**

Any injuries allegedly sustained by Plaintiffs were the result of Decedent Byron Lee Williams' own negligence and/or actions.

**NINTH AFFIRMATIVE DEFENSE**

The Defendant Officers are entitled to qualified immunity.

**TENTH AFFIRMATIVE DEFENSE**

Plaintiffs cannot recover punitive or exemplary damages against Defendant LVMPD.

**ELEVENTH AFFIRMATIVE DEFENSE**

The claims and each of them are barred by Plaintiffs' failure to plead those claims with particularity.

**TWELFTH AFFIRMATIVE DEFENSE**

These Answering Defendants reserve the right to amend these Affirmative Defenses as discovery unfolds and new information is discovered.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' state law claims are capped at \$100,000 pursuant to NRS 41.025.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiffs' state law claims involve discretionary functions for which these Answering Defendants are immune pursuant to NRS 41.032.

WHEREFORE, the LVMPD Defendants pray for judgment as follows:

1. That Plaintiffs take nothing by virtue of their Complaint on file herein and that the same be dismissed with prejudice;

2. For an award of reasonable attorney fees and costs of suit incurred in the defense of this action; and


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3. For such other and further relief as this Court may deem just and proper in the premises.

Dated this 15<sup>th</sup> day of September, 2021.

MARQUIS AURBACH COFFING

By   
Craig R. Anderson, Esq.  
Nevada Bar No. 6882  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Defendants LVMPD,  
Campbell, Vasquez, Gonzalez, Roman and  
Lombardo

**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing **DEFENDANTS LVMPD, CAMPBELL, VASQUEZ, GONZALEZ, ROMAN AND LOMBARDO'S ANSWER TO PLAINTIFFS' COMPLAINT** with the Clerk of the Court for the United States District Court by using the court's CM/ECF system on the 15<sup>th</sup> day of September, 2021.

☒ I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

☐ I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants: n/a

  
an employee of Marquis Aurbach Coffing

MARQUIS AURBACH COFFING

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